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2:24-cv-3265

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ALEXANDRA RASEY-SMITH;
GORDON GENE MACCANI; and
JANET MACCANI,

Plaintiffs,

vs.

CITY OF LOS ANGELES; and DOES
1-10, inclusive,

Defendants.

Case No. 2:24-cv-3265

COMPLAINT FOR DAMAGES

1. Unreasonable Search and Seizure—
Excessive Force (42 U.S.C. § 1983)
2. Unreasonable Search and Seizure—
Denial of Medical Care (42 U.S.C.
§ 1983)
3. Substantive Due Process (42 U.S.C.
§ 1983)
4. Battery (Wrongful Death and
Survival Damages)
5. Negligence (Wrongful Death and
Survival Damages)
6. Violation of Bane Act (Cal. Civil
Code § 52.1)

DEMAND FOR JURY TRIAL

COMPLAINT FOR DAMAGES

1. Plaintiffs ALEXANDRA RASEY-SMITH, GORDON GENE MACCANI
and JANET MACCANI, for their complaint against Defendants CITY OF LOS
ANGELES, and Does 1-10, inclusive, allege as follows:

1 **INTRODUCTION**

2 2. This civil rights action seeks compensatory and punitive damages from
3 Defendants for violating various rights under state law and the United States
4 Constitution in connection with the fatal officer involved shooting of Jason
5 Maccani (“DECEDENT”), by members of the Los Angeles Police Department
6 (“LAPD”).

7 **PARTIES**

8 3. At all relevant times, Jason Maccani (“DECEDENT”), was an individual
9 residing in the County of Los Angeles, California.

10 4. Plaintiff ALEXANDRA RASEY-SMITH is an individual residing in the
11 County of Los Angeles, and was the wife of the DECEDENT. ALEXANDRA
12 RASEY-SMITH sues both in her individual capacity as the wife of DECEDENT
13 and in a representative capacity as a successor-in-interest to DECEDENT. Plaintiff
14 ALEXANDRA RASEY-SMITH seeks both survival damages, including
15 DECEDENT’s pain and suffering and loss of enjoyment of life and wrongful death
16 damages under state and federal law.

17 5. Plaintiff GORDON GENE MACCANI is an individual residing in the
18 County of Los Angeles, California, and is the natural father to DECEDENT.
19 GORDON GENE MACCANI sues in his individual capacity as the father of
20 DECEDENT. GORDON GENE MACCANI seeks wrongful death damages under
21 state and federal law.

22 6. Plaintiff JANET MACCANI is an individual residing in Clark County,
23 Nevada, and is the natural mother to DECEDENT. JANET MACCANI sues in her
24 individual capacity as the mother of DECEDENT. JANET MACCANI seeks
25 wrongful death damages under state and federal law.

26 7. At all relevant times, Defendant CITY OF LOS ANGELES (“CITY”) is and
27 was a duly organized public entity, form unknown, existing under the laws of the
28 State of California. At all relevant times, CITY was the employer of Defendants

1 DOES 1-3, who were CITY police officers, DOES 4-6, who were CITY police
2 officers' supervisory officers, and DOES 7-10, who were managerial,
3 supervisory, and policymaking employees of the CITY's police department. On
4 information and belief, at all relevant times, DOES 1-10 were residents of the
5 County of Los Angeles, California. DOES 1-10 are sued in their individual capacity
6 for damages only.

7 8. At all relevant times, Defendants DOES 1-10 were duly authorized
8 employees and agents of CITY, who were acting under color of law within the
9 course and scope of their respective duties as sheriff's deputies and with the
10 complete authority and ratification of their principal, Defendant CITY.

11 9. At all relevant times, Defendants DOES 1-10 were duly appointed officers
12 and/or employees or agents of CITY, subject to oversight and supervision by
13 CITY's elected and non-elected officials.

14 10. In doing the acts and failing and omitting to act as hereinafter described,
15 Defendants DOES 1-10 were acting on the implied and actual permission and
16 consent of CITY.

17 11. At all times mentioned herein, each and every CITY defendant was the
18 agent of each and every other CITY defendant and had the legal duty to oversee and
19 supervise the hiring, conduct and employment of each and every CITY defendant.

20 12. The true names of defendants DOES 1 through 20, inclusive, are unknown
21 to PLAINTIFFS, who therefore sue these defendants by such fictitious names.
22 PLAINTIFFS will seek leave to amend this complaint to show the true names and
23 capacities of these defendants when they have been ascertained. Each of the
24 fictitious named defendants is responsible in some manner for the conduct and
25 liabilities alleged herein.

26 13. On February 23, 2024, PLAINTIFFS served their claims for damages with
27 CITY pursuant to applicable sections of the California Government Code.

28 14. On March 19, 2024, CITY rejected PLAINTIFFS' claims for damages.

1 21. The involved officers did not give DECEDENT a verbal warning that
2 deadly force would be used before they shot him, despite being feasible to do so.

3 22. DECEDENT did not physically injure anyone during the incident and he did
4 not pose an immediate or imminent threat of death or serious physical injury to
5 either the involved officers or any other person at the time of the shooting.

6 DECEDENT was not about to kill or cause serious bodily injury to anyone when he
7 was fatally shot by the involved officers and he did not disarm or try to take any of
8 the officers' guns. The conduct of DECEDENT was not immediately life
9 threatening, making the use of deadly force against him unnecessary.

10 23. On information and belief, the involved officers did not provide timely
11 medical care to DECEDENT, they did not timely summons medical assistance for
12 DECEDENT, and/or they prevented medical assistance from being timely provided
13 to DECEDENT.

14
15 **FIRST CLAIM FOR RELIEF**

16 **Unreasonable Search and Seizure—Excessive Force (42 U.S.C. § 1983)**

17 (By Plaintiff Alexandra Rasey-Smith against Does 1-3)

18 24. Plaintiff repeats and realleges each and every allegation in paragraphs 1
19 through 23 of this Complaint with the same force and effect as if fully set forth
20 herein.

21 25. The involved officers unjustified shooting deprived DECEDENT of his
22 right to be secure in his persons against unreasonable searches and seizures as
23 guaranteed to DECEDENT under the Fourth Amendment to the United States
24 Constitution and applied to state actors by the Fourteenth Amendment.

25 26. The unreasonable use of force by involved officers deprived DECEDENT of
26 his right to be secure in his person against unreasonable searches and seizures as
27 guaranteed to him under the Fourth Amendment to the United States Constitution
28 and applied to state actors by the Fourteenth Amendment. This unreasonable and

1 excessive use of force includes fatally shooting an individual holding a white
2 plastic fork, which is not a dangerous weapon and does not resemble a dangerous
3 weapon. There were also several less than lethal alternatives such as the bean bag
4 shotgun, tasers and pepper spray. DECEDENT was also significantly outnumbered
5 by the involved police officers and most of the involved officers did not fire their
6 guns, which further supports that a reasonable officer under similar circumstances
7 would not have found it appropriate to use deadly force under against DECEDENT.

8 27. As a result, DECEDENT suffered extreme mental and physical pain
9 and suffering, loss of enjoyment of life and eventually suffered a loss of life and of
10 earning capacity. Plaintiff has also been deprived of the life-long love,
11 companionship, comfort, support, society, care, and sustenance of DECEDENT, and
12 will continue to be so deprived for the remainder of her natural life.

13 28. As a result of the conduct of the involved officers, they are liable for
14 DECEDENT's injuries, either because they were integral participants in the
15 excessive force, or because they failed to intervene to prevent these violations.

16 29. This use of deadly force was excessive and unreasonable under the
17 circumstances, especially since DECEDENT was only holding a plastic fork, he
18 never physically injured anyone, he did take or try to obtain any of the officers' guns
19 and he did not pose an immediate threat of death or serious bodily injury at the time
20 of the shooting. The involved officers also did not give DECEDENT a verbal
21 warning that deadly force would be used before they shot him, despite being feasible
22 to do so. Defendants' actions thus deprived DECEDENT of his right to be free from
23 unreasonable searches and seizures under the Fourth Amendment and applied to
24 state actors by the Fourteenth Amendment.

25 30. The conduct of the involved officers was willful, wanton, malicious,
26 and done with reckless disregard for the rights and safety of DECEDENT and
27 therefore warrants the imposition of exemplary and punitive damages as to the
28 involved officers.

1 obvious serious injuries, and DOES 1-3 also did not allow and prevented
2 responding medical personnel on-scene to timely render medical aid/assistance to
3 DECEDENT.

4 38. The conduct of Does 1-3 was willful, wanton, malicious, and done with
5 reckless disregard for the rights and safety of DECEDENT and therefore warrants
6 the imposition of exemplary and punitive damages as to Defendant Does 1-3.

7 39. Plaintiffs bring this claim as a successors-in-interest to DECEDENT,
8 and seek both survival and wrongful death damages for the violation of
9 DECEDENT's rights.

10 40. Plaintiff also seeks attorney's fees under this claim.

11 **THIRD CLAIM FOR RELIEF**

12 **Substantive Due Process (42 U.S.C. § 1983)**

13 (By all Plaintiffs against Defendant DOES 1-3)

14 41. Plaintiffs repeat and reallege each and every allegation in
15 paragraphs 1 through 40 of this Complaint with the same force and effect as if fully
16 set forth herein.

17 42. ALEXANDRA RASEY-SMITH and had a cognizable interest under
18 the Due Process Clause of the Fourteenth Amendment of the United States
19 Constitution to be free from state actions that deprive her of life, liberty, or property
20 in such a manner as to shock the conscience, including but not limited to,
21 unwarranted state interference in Plaintiff's familial relationship with her husband,
22 DECEDENT.

23 43. GORDON GENE MACCANI had a cognizable interest under the Due
24 Process Clause of the Fourteenth Amendment of the United States Constitution to be
25 free from state actions that deprive him of life, liberty, or property in such a manner
26 as to shock the conscience, including but not limited to, unwarranted state
27 interference in Plaintiff's familial relationship with his son, DECEDENT.
28

1 44. JANET MACCANI had a cognizable interest under the Due Process
2 Clause of the Fourteenth Amendment of the United States Constitution to be free
3 from state actions that deprive her of life, liberty, or property in such a manner as to
4 shock the conscience, including but not limited to, unwarranted state interference in
5 Plaintiff's familial relationship with her son, DECEDENT.

6 45. As a result of the excessive force by DOES 1-3, and their failure to
7 intervene, DECEDENT died. Plaintiffs ALEXANDRA RASEY-SMITH,
8 GORDON GENE MACCANI, and JANET MACCANI were thereby deprived of
9 their constitutional right of familial relationship with DECEDENT.

10 46. Does 1-3, acting under color of state law, thus violated the Fourteenth
11 Amendment rights of ALEXANDRA RASEY-SMITH, GORDON GENE
12 MACCANI, and JANET MACCANI to be free from unwarranted interference with
13 their familial relationship with DECEDENT.

14 47. The aforementioned actions of DOES 1-3, along with other
15 undiscovered conduct, shock the conscience, in that they acted with deliberate
16 indifference to the constitutional rights of DECEDENT and Plaintiffs
17 ALEXANDRA RASEY-SMITH, GORDON GENE MACCANI, and JANET
18 MACCANI and with purpose to harm unrelated to any legitimate law enforcement
19 objective.

20 48. Defendants DOES 1-3, acting under color of state law, thus violated the
21 Fourteenth Amendment rights of DECEDENT and Plaintiffs.

22 49. As a direct and proximate cause of the acts of DOES 1-3, DECEDENT
23 experienced severe pain and suffering and lost his life and earning capacity.
24 Plaintiffs suffered extreme and severe mental anguish and pain and have been
25 injured in mind and body. Plaintiffs has also been deprived of the life-long love,
26 companionship, comfort, support, society, care and sustenance of DECEDENT, and
27 will continue to be so deprived for the remainder of their natural lives. Plaintiffs are
28 also claiming funeral and burial expenses.

1 50. As a result of the conduct of Does 1-3, they are liable for
2 DECEDENT'S injuries, either because they were integral participants in the denial
3 of due process, or because they failed to intervene to prevent these violations.

4 51. The conduct of DOES 1-3 was willful, wanton, malicious, and done
5 with reckless disregard for the rights and safety of DECEDENT and Plaintiffs and
6 therefore warrants the imposition of exemplary and punitive damages as to
7 Defendant DOES 1-3.

8 52. Plaintiffs brings this claim individually and seek wrongful death
9 damages for the violation of Plaintiffs' rights.

10 53. Plaintiffs also seek attorney fees under this claim.

11 **FOURTH CLAIM FOR RELIEF**

12 **Battery (Cal. Govt. Code § 820)**

13 (Survival and Wrongful Death)

14 (By Plaintiff Alexandra Rasey-Smith against Defendants Does 1-3 and 11-13,
15 County and State)

16 54. Plaintiffs repeat and realleges each and every allegation in
17 paragraphs 1 through 53 of this Complaint with the same force and effect as if fully
18 set forth herein.

19 55. DOES 1-3, while working as police officers for the CITY's police
20 department, and while acting within the course and scope of their duties,
21 intentionally shot DECEDENT. As a result of the actions of DOES 1-3,
22 DECEDENT suffered severe pain and suffering and ultimately died from his
23 injuries and lost earning capacity. DOES 1-3 had no legal justification for using
24 force against DECEDENT and said defendants' use of force while carrying out their
25 police officer duties was an unreasonable use of force. Especially since
26 DECEDENT was only holding a plastic fork, and was not armed with a dangerous
27 weapon like a knife or gun, DECEDENT never physically injured anyone during the
28 incident, and there were less than lethal alternatives to using deadly force against
DECEDENT.

1 56. As a direct and proximate result of Defendants' conduct as alleged
2 above, Plaintiff suffered extreme and severe mental anguish and pain and has been
3 injured in mind and body. Plaintiff also has been deprived of the life-long love,
4 companionship, comfort, support, society, care and sustenance of her husband,
5 DECEDENT, and will continue to be so deprived for the remainder of her natural
6 life. Plaintiff is also claiming funeral and burial expenses and loss of financial
7 support.

8 57. CITY is vicariously liable for the wrongful acts of DOES 1-3 pursuant
9 to section 815.2(a) of the California Government Code, which provides that a public
10 entity is liable for the injuries caused by its employees within the scope of the
11 employment if the employee's act would subject him or her to liability.

12 58. The conduct of DOES 1-3 was malicious, wanton, oppressive, and
13 accomplished with a conscious disregard for the rights of Plaintiff and DECEDENT,
14 entitling Plaintiff, individually and as successors-in-interest to DECEDENT, to an
15 award of exemplary and punitive damages.

16 59. Plaintiff brings this claim both individually and as a successors-in-
17 interest to DECEDENT, and seek both survival damages, including pre-death pain
18 and suffering, loss of life/enjoyment of life and wrongful death damages under this
19 claim.

20
21 **FIFTH CLAIM FOR RELIEF**
22 **Negligence (Cal. Govt. Code § 820)**
 (Survival and Wrongful Death)

23 (By Plaintiff Alexandra Rasey-Smith against All Defendants)

24
25 60. Plaintiff repeats and realleges each and every allegation in paragraphs 1
26 through 59 of this Complaint with the same force and effect as if fully set forth
27 herein.
28

1 61. The actions and inactions of the Defendants were negligent and
2 reckless, including but not limited to:

- 3 (a) the failure to properly and adequately assess the need to detain,
4 arrest, and use force or deadly force against DECEDENT;
- 5 (b) the negligent tactics and handling of the situation with
6 DECEDENT, including pre-shooting negligence;
- 7 (c) the negligent detention, arrest, and use of force, including deadly
8 force, against Decedent;
- 9 (d) failure to recognize that DECEDENT was holding a white plastic
10 fork and not a dangerous weapon like a knife or a gun;
- 11 (e) the failure to provide a verbal warning that deadly force would
12 be used, despite being feasible to do so;
- 13 (f) the failure to continue to use less than lethal alternatives to
14 deadly force that were readily available to the involved officers;
- 15 (e) the failure to summons and provide prompt medical care to
16 Decedent;
- 17 (f) the failure to properly train and supervise employees, both
18 professional and non-professional, including DOES 1-3;
- 19 (g) the failure to ensure that adequate numbers of employees with
20 appropriate education and training were available to meet the
21 needs of and protect the rights of DECEDENT; and
- 22 (h) the negligent handling of evidence and witnesses.

23 62. As a direct and proximate result of Defendants' conduct as alleged
24 above, and other undiscovered negligent conduct, DECEDENT was caused to suffer
25 severe pain and suffering and ultimately died and lost earning capacity. Further, as
26 a direct and proximate result of Defendants' conduct as alleged above, Plaintiff
27 suffered extreme and severe mental anguish and pain and has been injured in mind
28 and body. Plaintiff also has been deprived of the life-long love, companionship,

1 comfort, support, society, care and sustenance of DECEDENT, and will continue to
2 be so deprived for the remainder of her natural life. Plaintiff also is claiming funeral
3 and burial expenses and loss of financial support.

4 63. CITY is vicariously liable for the wrongful acts of DOES 1-3 pursuant
5 to section 815.2 of the California Government Code, which provides that a public
6 entity is liable for the injuries caused by its employees within the scope of the
7 employment if the employee's act would subject him or her to liability.

8 64. Plaintiff brings this claim both individually and as successor in interest
9 to DECEDENT and seek both wrongful death damages and survival damages under
10 this claim, including pre-death pain and suffering.

11 12 **SIXTH CLAIM FOR RELIEF**

13 **Violation of Bane Act (Cal. Civil Code § 52.1)**

14 (By Plaintiff Alexandra Rasey-Smith against Does 1-3 and City)

15 65. Plaintiff repeat and reallege each and every allegation in paragraphs 1
16 through 64 of this Complaint with the same force and effect as if fully set forth
17 herein.

18 66. California Civil Code, Section 52.1 (the Bane Act), prohibits any
19 person from interfering with another person's exercise or enjoyment of his
20 constitutional rights by threats, intimidation, or coercion.

21 67. Conduct that violates the Fourth Amendment can also amount to
22 conduct that violates the California Bane Act. The involved officers' conduct,
23 including the use of deadly force, constitutes threatening and intimidating behavior,
24 meant to prevent DECEDENT from exercising both her federal and state rights.

25 68. Defendant DOES 1-3 use of deadly force was excessive and
26 unreasonable under the circumstances, especially since DECEDENT was only
27 holding a white plastic fork and was not armed with a dangerous weapon like a
28 knife or a gun, no one had suffered bodily and DECEDENT never attempted to

1 obtain any of the involved officers' equipment or guns. Further, DECEDENT did
2 not pose an imminent threat of death or serious bodily injury towards anyone when
3 he was fatally shot and there were less than lethal alternatives available which were
4 not utilized before resorting to the use of deadly force. The officers also did not
5 provide a verbal warning that deadly force would be used, prior to shooting
6 DECEDENT, despite being feasible to do so. Defendants' actions thus deprived
7 DECEDENT of his right to be free from unreasonable searches and seizures and to
8 be free from having unreasonable and excessive force used against him.
9 Defendants' actions violated DECEDENT's state and federal rights, including the
10 right to be free from the use of excessive and unreasonable force. Further, the
11 involved officers acted with a reckless disregard of constitutional and statutory
12 rights of the Decedent, including the right to be free from having unreasonable and
13 excessive deadly force used against him.

14 69. The involved officers intentionally used excessive and unreasonable
15 deadly force against DECEDENT by recklessly disregarding the DECEDENT's
16 right to be free from excessive force.

17 70. DOES 1-3, while working as police officers for the CITY's police
18 department, and acting within the course and scope of their duties, interfered with or
19 attempted to interfere with the rights of DECEDENT to be free from unreasonable
20 searches and seizures, to equal protection of the laws, to access to the courts, and to
21 be free from state actions that shock the conscience, by threatening or committing
22 acts involving violence, threats, coercion, or intimidation.

23 71. On information and belief, DECEDENT reasonably believed that if he
24 exercised his rights, including his federal civil rights and state law rights, DOES 1-3
25 would commit acts involving violence, threats, coercion, or intimidation against
26 him.

1 72. On information and belief Defendant DOES 1-3 injured DECEDENT
2 to prevent him from exercising his rights or retaliated against Decedent for having
3 exercised his rights.

4 73. DECEDENT was caused to suffer extreme pain and suffering and
5 eventually suffered a loss of life and of earning capacity. Plaintiff has also been
6 deprived of the life-long love, companionship, comfort, support, society, care, and
7 sustenance of DECEDENT, and will continue to be so deprived for the remainder of
8 her natural life. Plaintiff is also claiming funeral and burial expenses and a loss of
9 financial support.

10 74. The conduct of DOES 1-3 was a substantial factor in causing the
11 harms, losses, injuries, and damages of DECEDENT and Plaintiff.

12 75. CITY is vicariously liable for the wrongful acts of DOES 1-3 pursuant
13 to section 815.2(a) of the California Government Code, which provides that a public
14 entity is liable for the injuries caused by its employees within the scope of the
15 employment if the employee's act would subject him or her to liability.

16 76. The conduct of DOES 1-3 was malicious, wanton, oppressive, and
17 accomplished with a conscious disregard for the rights of DECEDENT entitling
18 Plaintiff to an award of exemplary and punitive damages.

19 77. Plaintiff brings this claim in a representative capacity as the successors-
20 in-interest to DECEDENT, and seek survival damages, including for pre-death pain
21 and suffering and loss of life/enjoyment of life for the violation of DECEDENT's
22 rights.

23 78. The Plaintiff also seeks statutory attorney's fees under this claim,
24 including a multiplier as permitted by law.

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26 ///

27 ///

28 ///

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request entry of judgment in her favor and against Defendants City of Los Angeles and Does 1-10, inclusive, as follows:

- A. For compensatory damages, including both survival damages, including pain and suffering and loss of life/enjoyment of life and wrongful death damages under state law and federal law, in the amount to be proven at trial;
- B. For funeral and burial expenses and loss of financial support;
- C. For punitive damages against the individual defendants in an amount to be proven at trial;
- D. For interest;
- E. For treble damages under Civil Code Section 52.1.
- F. For reasonable costs of this suit and attorneys' fees; and
- G. For such further other relief as the Court may deem just, proper, and appropriate.

DATED: April 19, 2024

LAW OFFICES OF DALE K. GALIPO

By /s/ Dale S. Galipo

Dale K. Galipo

Eric Valenzuela

Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury.

DATED: April 19, 2024

LAW OFFICES OF DALE K. GALIPO

By /s/ Dale S. Galipo

Dale K. Galipo

Eric Valenzuela

Attorneys for Plaintiffs